UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

SAMUEL KATZ and LYNNE RHODES, individually, and on their own behalf and on behalf of all others similarly situated,)))
Plaintiffs,))
V.) Case No. 1:18-cv-10506-ADB-DLC
LIBERTY POWER CORP., LLC, et al.,))
Defendants.))
LIBERTY POWER CORP., LLC, and LIBERTY POWER HOLDINGS, LLC,)))
Third-Party Plaintiffs,))
v.)
MEZZI MARKETING, LLC,)
Third-Party Defendant.))
LIBERTY POWER CORP., LLC,)))
Counterclaim-Plaintiff,))
v.))
SAMUEL KATZ,))
Counterclaim-Defendant.)))

DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' SECOND AMENDED COMPLAINT

Defendants Liberty Power Corp., LLC, and Liberty Power Holdings, LLC (collectively, "Defendants"), by counsel, pursuant to Fed. R. Civ. P. 12(b)(1), move to dismiss Plaintiffs' Second Amended Complaint (ECF No. 109) for lack of subject matter jurisdiction. In support

thereof, Defendants refer the Court to the accompanying Memorandum in Support filed simultaneously herewith.

Dated: January 15, 2021

Respectfully Submitted,

Defendants Liberty Power Corp., LLC and Liberty Power Holdings, LLC

By Their Attorneys:

/s/ Jeffrey Brundage

Charles A. Zdebski (pro hac vice) czdebski@eckertseamans.com
Jeffrey P. Brundage (pro hac vice) jbrundage@eckertseamans.com
ECKERT SEAMANS CHERIN

& MELLOTT, LLC

1717 Pennsylvania Ave, NW, Suite 1200

Washington, D.C. 20006 Telephone: (202) 659-6676 Facsimile: (202) 659-6676

Craig R. Waksler (B.B.O. # 566087) cwaksler@eckertseamans.com ECKERT SEAMANS CHERIN

& MELLOTT, LLC Two International Place

16th Floor Boston, Massachusetts 02110 Telephone: (617) 342-6800 Facsimile: (617) 342-6899

Counsel for Defendants Liberty Power Corp., LLC and Liberty Power Holdings, LLC

LOCAL RULE 7.1(a)(2) CERTIFICATE OF COMPLIANCE

I, Charles A. Zdebski, counsel for Defendants, hereby certify that on December 8, 2020, at approximately 3:00 pm EST, I conferred telephonically with counsel for the Plaintiffs Shaun Lieberman who opposed the relief sought herein.

/s/ Charles A. Zdebski Charles A. Zdebski

CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) to:

John L. Fink, Esq.
FINK LAW OFFICE
18 Lyman Street, Suite 208
J&N Professional Building
Westborough, Massachusetts 01581
Co-Counsel for Plaintiff

David C. Parisi, *Pro Hac Vice*Suzanne Havens Beckman, *Pro Hac Vice*PARISI & HAVENS LLP
212 Marine Street, Unit 100
Santa Monica, CA 90405 *Co-Counsel for Plaintiff*

Yitzchak H. Lieberman, *Pro Hac Vice* Grace E. Parasmo, *Pro Hac Vice* PARASMO LIEBERMAN LAW 7400 Hollywood Blvd., Suite 505 Los Angeles, CA 90046 *Co-Counsel for Plaintiff*

Ethan Mark Preston, *Pro Hac Vice*Preston Law Offices
4054 McKinney Avenue
Suite 310
Dallas, TX 75204
Co-Counsel for Plaintiff

/s/ Jeffrey Brundage
Jeffrey Brundage